

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 JACOB R. PRATT,

Case No.: 3:18-cv-00457-MMD-WGC

4 Plaintiff,

ORDER

5 v.

Re: ECF No. 1

6 CHAIR OF THE NEVADA BOARD
7 OF PAROLE COMMISSIONERS,
8 SUSAN JACKSON, ADAM ENDEL,
9 CHRISTOPHER DERICCO,

Defendants.

11 Plaintiff has filed an application to proceed in forma pauperis (IFP) (ECF No. 1) and *pro se*
12 complaint (ECF No. 1-1).

13 A person may be granted permission to proceed IFP if the person “submits an affidavit that
14 includes a statement of all assets such [person] possesses [and] that the person is unable to pay
15 such fees or give security therefor. Such affidavit shall state the nature of the action, defense or
16 appeal and affiant’s belief that the person is entitled to redress.” 28 U.S.C. § 1915(a)(1).

17 The Local Rules of Practice for the District of Nevada provide: “Any person who is unable
18 to prepay the fees in a civil case may apply to the court for authority to proceed [IFP]. The
19 application must be made on the form provided by the court and must include a financial affidavit
20 disclosing the applicant’s income, assets, expenses, and liabilities.” LSR 1-1.

21 “[T]he supporting affidavits [must] state the facts as to [the] affiant’s poverty with some
22 particularity, definiteness and certainty.” *U.S. v. McQuade*, 647 F.2d 938, 940 (9th Cir. 1981)

1 (quotation marks and citation omitted). A litigant need not “be absolutely destitute to enjoy the
2 benefits of the statute.” *Adkins v. E.I. Du Pont de Nemours & Co.*, 335 U.S. 331, 339 (1948).

3 An inmate submitting an application to proceed IFP must also “submit a certificate from
4 the institution certifying the amount of funds currently held in the applicant’s trust account at the
5 institution and the net deposits in the applicant’s account for the six months prior to the date of
6 submission of the application.” LSR 1-2; *see also* 28 U.S.C. § 1915(a)(2). If the inmate has been
7 at the institution for less than six months, “the certificate must show the account’s activity for this
8 shortened period.” LSR 1-2.

9 If a prisoner brings a civil action IFP, the prisoner is still required to pay the full amount
10 of the filing fee. 28 U.S.C. § 1915(b)(1). The court will assess and collect (when funds exist) an
11 initial partial filing fee that is calculated as 20 percent of the greater of the average monthly
12 deposits or the average monthly balance for the six-month period immediately preceding the filing
13 of the complaint. 28 U.S.C. § 1915(b)(1)(A)-(B). After the initial partial filing fee is paid, the
14 prisoner is required to make monthly payments equal to 20 percent of the preceding month’s
15 income credited to the prisoner’s account. 28 U.S.C. § 1915(b)(2). The agency that has custody of
16 the prisoner will forward payments from the prisoner’s account to the court clerk each time the
17 account exceeds \$10 until the filing fees are paid. 28 U.S.C. § 1915(b)(2).

18 Plaintiff has submitted an IFP application; however, it is not accompanied by a certificate
19 from the institution where he is incarcerated (which appears to be in New Mexico) certifying the
20 amount of funds currently held in the applicant’s trust account at the institution and the net deposits
21 in the applicant’s account for the six months prior to the date of submission of the application.
22 Therefore, the application is denied without prejudice.

1 The regular filing fee is \$400, consisting of the \$350 filing fee and a \$50 administrative
2 fee. If an inmate does not qualify for IFP status, he must pay the full \$400 filing fee. If the inmate
3 qualifies for IFP status, the \$50 administrative fee is waived, and the inmate will only pay the \$350
4 filing fee over time.

5 The Clerk shall send Plaintiff a copy of the instructions and application to proceed IFP for
6 an inmate. Plaintiff has 30 days from the date of this Order to either file his completed IFP
7 application or pay the full \$400 filing fee.

8 Once a completed IFP application is filed or the filing fee is paid, the court will screen the
9 complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) or 28 U.S.C. § 1915A, or both. Both require
10 dismissal of a complaint, or any portion thereof, that is frivolous or malicious, fails to state a claim
11 upon which relief may be granted, or seeks monetary relief against a defendant who is immune
12 from such relief. If the complaint is dismissed on screening, there will be no refund of the filing
13 fee, and an inmate proceeding IFP is still required to pay the \$350 filing fee over time.

14 **CONCLUSION**

15 Plaintiff's IFP application (ECF No. 1) is **DENIED WITHOUT PREJUDICE**. The
16 Clerk shall **SEND** Plaintiff a copy of the instructions and application to proceed IFP for an inmate.
17 Plaintiff has **30 days** from the date of this Order to either file his completed IFP application with
18 the required financial certificate or pay the full \$400 filing fee. A failure to comply with this Order
19 may result in dismissal of this action.

20 DATED: November 6, 2018.

21 
22 WILLIAM G. COBB
23 UNITED STATES MAGISTRATE JUDGE